

3624
IPW

00862.022471.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MITSUMASA SUGIYAMA

Application No.: 09/161,401

Filed: September 28, 1998

For: DATABASE SYSTEM, ITS
CONTROL METHOD, AND
INFORMATION PROCESSING
APPARATUS

Examiner: E. Colbert

Group Art Unit: 3624

December 14, 2004

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT
WITH TRAVERSE

Sir:

In response to the restriction requirement set forth in the Office Action dated November 15, 2004, Applicant again provisionally elects Group I, namely, Claims 1, 3 to 6, 12, 14 to 17, 23, 26 and 29, allegedly drawn to database access, classified in class 707, subclass 102. This election is made with traverse.

An application may be properly required to be restricted to one of two or more claimed inventions only if the inventions are able to support separate patents and they are either independent or distinct. MPEP § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. MPEP § 803.

"The term 'distinct' means that two or more subjects as disclosed are related, for example, as combination and part (sub-combination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed and are patentable (novel and unobvious) over each other (though they may each be unpatentable because of the prior art)." MPEP § 802.01.

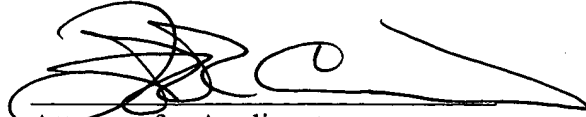
In this regard, Applicant again respectfully submits that the claims of Groups I to IV are all generally directed to operations for a distributed database system. Since all claims are generally directed to a same technical field, Applicant respectfully submits that two-way distinctness is not seen to be present among the claims of Groups I to IV. MPEP § 806.05(c).

In addition, "(b)efore making a restriction requirement after the first action on the merits, the Examiner will consider whether there will be a serious burden if restriction is not required." MPEP § 811. Applicant submits that the search and examination of all pending claims of Groups I to IV can be made without serious burden, and therefore restriction is believed to be improper. MPEP § 803. Specifically, the claims of Groups I to IV are all directed to a similar field of art as described above and have been previously searched as a single group. Accordingly, Applicants respectfully submit that concurrent search and examination of all claims of Groups I to IV can be made without serious burden.

Based on the foregoing remarks, Applicant respectfully requests reconsideration and withdrawal of the restriction requirement, so that there may be a concurrent examination of all currently-pending claims of Groups I through IV.

Applicant's undersigned attorney may be reached in our Costa Mesa, CA office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Frank L. Cire', written over a horizontal line.

Attorney for Applicant

Frank L. Cire

Registration No. 42,419

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200

CA_MAIN 89673v1